

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION	)	MDL
2804 OPIATE LITIGATION	)	
	)	Case No. 1:17-md-2804-DAP
This document relates to:	)	
	)	Judge Dan Aaron Polster
All MDL Tribal Cases (other than the	)	
Tribal Bellwether Cases)	)	

**PLAINTIFFS' TRIBAL LEADERSHIP COMMITTEE'S**  
**MOTION TO PROVIDE A PROCEDURE FOR TRIBAL PLAINTIFFS TO**  
**FILE SHORT FORM COMPLAINTS**

The undersigned counsel, in their capacity as members of the Tribal Leadership Committee, bring this motion on behalf of Plaintiffs in all MDL non-Bellwether Tribal Cases<sup>1</sup> (“Tribal Plaintiffs”) and hereby move this Honorable Court for an order providing Tribal Plaintiffs with a mechanism to file Short Form Complaints, like that set out in the Court’s *Opinion and Order* (“*Short Form Order*”) dated 01/18/2019 (*ECF Doc. 1282*). In further support, Tribal Plaintiffs state as follows:

The *Short Form Order* provided all plaintiffs with MDL cases, “other than those identified in paragraphs 2 and 3 of CMO 1,” an extension until March 16, 2019, “to amend their pleadings as a matter of right for matters both relying on and beyond the ARCOS data” and to incorporate by reference the common factual allegations and RICO claims set forth in the pleadings in *County of Summit, Ohio*, case number 1:18-op-45090. *Short Form Order* at 2-3.

On March 14, 2019, Plaintiffs’ Tribal Leadership Committee Filed a Motion to Extend the Deadline for Tribes to file Short Form Complaints (*ECF Doc. 1440*) in order to allow time

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<sup>1</sup> To be clear, this motion does not apply to the two bellwether tribal cases, Muscogee (Creek) Nation 1:18-op-45459 and The Blackfeet Tribe of the Blackfeet Indian Reservation, 18-op-45749.

for the Court to rule on the Tribal Bellwether Motions to Dismiss, and to allow time for discrepancies in the ARCOS data with regard to tribes to be resolved. On March 15, 2019, the Court issued a Scheduling Order staying the Tribe's obligation to file Short Form Complaints while the motion was pending (*ECF Doc. 1441*). Briefing of the issue followed, and on April 4, 2019, the Court granted Tribal Plaintiffs' Request to Extend the Deadline for Tribes to File Short Form Complaints to 60 days after the Court's final ruling on the Motions to Dismiss the Bellwether Tribal Plaintiffs (*ECF Doc. 1515*).

In light of the Court's June 13, 2019 final ruling on the Motions to Dismiss the Bellwether Tribal Plaintiffs, Tribal Plaintiffs are now preparing to comply with the Court's April 4, 2019 Order.<sup>2</sup> However, the *Short Form Order* (Doc 1282), provides no mechanism by which the Tribal Plaintiffs' can adopt the *Tribal Bellwether's* Complaints, it only allows for adoption of the inapposite *Summit County* Complaint. Therefore, Tribal Plaintiffs respectfully request an Order providing a mechanism to allow Tribal Plaintiffs' to adopt the Tribal Bellwether Plaintiffs' Complaints. The proposed language of the Order is attached hereto as Exhibit A.

As Tribal Plaintiffs have previously advised, the claims and factual allegations contained within the Tribal Bellwether Complaints are more appropriate for incorporation by reference by Tribal Plaintiffs than those in the *Summit County* Complaint. The Tribal Bellwether Complaints include different factual allegations and legal issues than the *Summit County* Complaint, including factual allegations having to do with the legally unique tribal healthcare system, a different standing analysis for tribes than for cities/counties, etc. Therefore, it is more appropriate that the Tribal Plaintiffs incorporate the claims and

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<sup>2</sup> Indeed, the recent motion to Modify the Court's Consolidated ARCOS Protective Order of April 12, 2019 was filed to allow Tribes more complete access to the relevant ARCOS data so that they can comply with the deadline to Amend their Complaints.

allegations from the Tribal Bellwether complaints, rather than trying to shoehorn the *Summit County* claims and allegations into the Tribal Plaintiffs' Complaints.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant their Motion. For the Court's convenience, Plaintiff has attached a proposed order as Exhibit A.

Respectfully submitted,

**Plaintiffs' Tribal Leadership Committee**

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 19th day of June, 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. Copies will be served upon counsel of record by, and may be obtain through, the Court CM/ECF Systems.

*s/ Timothy Q. Purdon*

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